

ROMANIAN HARMONIZATION OF LAWS WITH EUROPEAN UNION POLICIES REGARDING CONSUMER PROTECTION

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Abstract

The consumer protection policy is more and more present at the core of the main challenges facing the citizens, the economy and societies and the need for consumer trust that would stimulate the economy, has never been greater (European Commission, 2007). Therefore, the European Union has been regulated guidelines aimed at consumer protection. These principles were incorporated in a common strategy of Member Community Strategy during 2007-2013 and provided for setting and actions to be taken at European Union level to achieve these objectives. In what follows, we present the basic ideas set out in the European Union Consumer Strategy and their transposition stage in our legislation in order to achieve full legislative harmonization.

Keywords: consumers, consumer protection, consumer protection policies, European Union policies, Romanian harmonization of laws

JEL Classification: K32

Introduction

Consumer protection is among the social policies promoted by any state. Because of its importance, consumer protection should become a policy with its own objectives, priorities, and instruments (Baci, 2009).

While protection policy has remote origins, going back to the Roman times, when laws were passed to offer warranties against the faults of marketed goods, the current legislative framework concerning consumer protection in developed countries has the origin in the activism of the 1960-1970 decade, a time in which most principles concerning consumer protection were not applicable or were too broadly stipulated (Rickett & Telfer, 2003). At the outset of the XXI century, the economic changes and the evolution of economic theories lead to a new approach of the principles concerning consumer protection and protection policies.

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The origins of the concepts “consumer” and “consumer rights” are in the “Consumer Bill of Rights” defined by the former U.S. President, J.F. Kennedy in 1962, in a special speech to the American Congress. The Consumer Bill of Rights was not finalized because of the assassination of the American President, but it continues to be important because it outlines the fundamental rights of the consumers (the right to choose freely, the right to be informed, the right to petition and to be heard). Also, the Consumer Bill of Rights has been a reference model in drawing up the consumer protection laws which have been passed in the U.S.A and in other countries (Baciu, 2009).

With the development of science, art and technology, trade and markets, consumers started to face more complex products (Baciu, 2009). By means of communication and information, commercial advertising, consumers get in contact with the market, in which the operator (manufacturer, distributor, retailer) has absolute control. With a great economic power it requires products on the market, determining the consumer to buy them, whether or not they are according to his needs. The market is no longer the place in which the consumer expresses his needs, enabling manufacturers to know and satisfy them, but became the means by which professional accumulate as much capital.

Furthermore, the new vision of consumption remained without foundation. The goods are acquired through completion of standard contract in which the consumer expresses only his/her adhesion, being incapable to negotiate the contract terms (Bourgoignie, 2004, p. 37).

In these circumstances, an imbalance is being produced in the exchange ratio: on one side, there is the professional (manufacturer, distributor, retailer), economically strong, well organized and informed, and on the other side, there is the consumer, misinformed, no power to negotiate, weak financial and legal.

In this context, protecting the weak party emerged as a necessity which, has been concluded in a legislation regarding the consumer protection.

The main problems facing the consumer with are related to the difficulty of creating a truly effective means to act in order to ensure a balance of forces within the vendor-consumer relationship. The judicial means require recourse to a civil or administrative court, which has many disadvantages for consumers: high cost of justice, psychological barriers, etc.. Extrajudicial means are organized by state or private institutions, being, on one side, about control actions carried out by inspectors of consumer protection authorities in order to detect any situations which may represent a danger for the health and safety of citizens. On the other side, it is about the actions of private institutions of information and awareness of citizens about their rights in dealing with traders.

Awareness, informing citizens about their rights conferred by many European consumer protection regulations represents a very important step in reducing cases of violations of consumer rights. Also, for a more efficient action of the consumer inspectors, they must be continuously informed about the new Community and national legislation in this area, which involves organizing regular training courses, seminars, partnerships between authorities in European Union countries.

1. European policies concerning consumer protection

At Community level, the representatives of the European institutions have been carrying out an intense activity in order to achieve a unification of the Community policies in the field of consumer protection.

Taking into account that the European Union, through its institutions can contribute to the protection of the health, safety and legal and economic interests of its citizens through actions in the field of consumer protection, a program of Community action in the field of consumer protection was established in order to replace Decision No 20/2004/EC of the European Parliament and of the Council of 8 December 2003, published in the Official Journal L 5 of 09.01. 2004.

It was considered that priority had to be given to integrating consumer interests in all Community policies, coordination with these Community policies and programs being an essential part in guaranteeing that the interests of the consumers are taken into account in other policies. At the same time, it was considered to be of general European interest that the health and safety aspects of services and non-food products and the economic and legal interests of the citizens, as well as consumers' interests in the development of standards for products and services be represented at Community level.

Between November 2004 and September 2006, Consumer organizations have been consulted on various occasions to define the future priorities of consumer policy. In particular, at a workshop organized by the General assembly of Consumer organizations in Brussels (November 2004), in the framework of the European Consultative Consumer Group (ECCG) (10 December 2004, 16 March 2005, 20 September 2006), and through bilateral hearings held with many national consumer organizations in January-February 2005 in Belgium, Czech Republic, Denmark, Cyprus, Greece, Spain, Germany, Finland, France, Hungary, Ireland, Luxemburg, Sweden, United Kingdom, Netherlands and Poland. Besides, meetings were held with the Bureau Européen des Associations de Consommateurs and the European association for the coordination of consumer representation in standardization.

The Community efforts have been confirmed by adopting on 18 December 2006 the Decision No 1926/2006/EC of the European Parliament and of the Council of the European Union a Community action in the field of consumer protection (2007-2013), published in the Official Journal L 404 of 30.12.2006.

Through the Decision No 1926/2006/EC of the European Parliament and of the Council of the European Union, a program of Community action in the field of consumer policy was established for the period 31 December 2006-31 December 2013, its aim being to complement, support and monitor the policies of Member States and contribute to protecting the health, safety and the economic and legal interests of the consumers and promote their rights to information and education, as well as the right to organize themselves in order to safeguard their interests.

The Commission's aim is to achieve by 2013 a more integrated and more efficient internal market, especially in retail dimension. Consumers will have an equal high level of confidence in products, traders, technologies and selling methods in retail market all over the European Union, based on equal high level of protection. Consumer markets will be competitive, open, transparent and fair. Products and services will be safe. Consumers will have access to essential services for a reasonable price. Traders, but in particular SME's,

will be able to market and to sell products to the consumers all over the European Union (European Commission, 2007, p.15).

2007-2013 will see a change in gear from the past and different priorities for action. In particular EU consumer policy will interact more closely with other policies both at EU level. Much closer cooperation with the Member States will also be pursued, reflecting the growing interdependence between EU and national consumer policies.

In order to achieve these objectives, a series of program priorities were planned as follow:

- To ensure a high level of consumer protection, notably through elements of quality, better consultation and better representation of consumers' interests;
- To ensure the effective application of consumer protection rules, in particular through legislation enforcement cooperation, information, education and redress.

To achieve these priorities, European Union has settled the following actions, such as (European Commission, 2007, p.19):

- the collection, exchange and analysis of data and information that provide an evidence base for the development of consumer protection policy and for the integration of consumer interests in other policies.
- the collection, exchange and analysis of data and information and development of assessment tools that provide an evidence base on the safety of consumer goods and services, including consumer exposure to chemicals released from products, risks and injuries in relation to specific consumer goods and services, and technical analysis of alert notifications.
- support for scientific advice and risk evaluation, including the tasks of the independent scientific committees established by Commission Decision 2004/210/EC of 3 March 2004 setting up scientific committees in the field of consumer safety, public health and the environment.
- preparation of legislative and other regulatory initiatives and promotion of co-regulatory and self-regulatory initiatives.
- financial contributions to the functioning of European consumer organizations representing consumer interests for the development of standards for products and services at Community level.
- capacity building for regional, national and European consumer organizations, in particular through training and exchange of best practices and staff expertise, in particular for consumer organizations in Member States which acceded to the EU on or after 1 May 2004.
- to ensure effective application of consumer protection rules, in particular through enforcement cooperation, information, education and redress.
- actions to improve the effective application of Community consumer protection legislation, in particular Directive 2001/95/ EC of the European Parliament and of the Council on 3 December 2001 on general product safety (published in the Official Journal L 11 of 15.01.2002) and Regulation (EC) No. 2006/2004 of the European Parliament and of

the Council of 27 October 2004 on the cooperation between national authorities responsible for the enforcement of consumer protection laws, published in the Official Journal L 364 of 9.12.2004.

In order to carry out the program during the period 31 December 2006 – 31 December 2013, a financial plan set at EUR 156,800,000 was established, the European Commission being the EU institution in charge of implementing the program.

The European Union Member States can participate in the program and EFTA/EEA countries – in compliance with the EEA Agreement – and third countries, in particular those on which the European neighborhood policy applies, countries which are applying for, are candidates for, or are acceding to, membership of the European Union and to the countries from the Western Balkans included in the stabilization and association process, in compliance with the conditions stipulated in the bilateral or multilateral agreements concluded with these countries, in which general participation principles are laid down for the participation in Community programs.

The European Commission in cooperation with the Member States shall monitor the implementation of the actions of the program and keep the European Parliament and the Council informed thereof. The Commission can also request the Member States to inform it on the implementation and impact of the program.

Benchmarking national consumer protection policies conducted in the second edition of the Scoreboard Consumer Markets stated that the free movement of safe products and consumer protection against rogue traders depend on the effectiveness of market surveillance and enforcement in all Member States (European Commission, 2009, pp. 14-15).

The percentage of consumers who feel adequately protected by existing measures vary considerably from one Member State to another and was lower in 2008 than in 2006, in most countries (Figure no. 1). About half of Europeans believe that existing measures provide better consumer protection. Data collected shows that enforcement action and the ability of consumers in the European Union are far from homogeneous and that most countries have positive and negative aspects.

The Commission shall insure that the program is evaluated 3 years after its start and following its end. The Commission shall communicate the results of those evaluations, accompanied by its comments, to the European Parliament, the Council, the European and Social Committee and the Committee of the Regions.

The existing consumer protection laws at EU level guarantee fundamental consumer protection in all member states. In many, they are the cornerstone of national consumer protection policies.

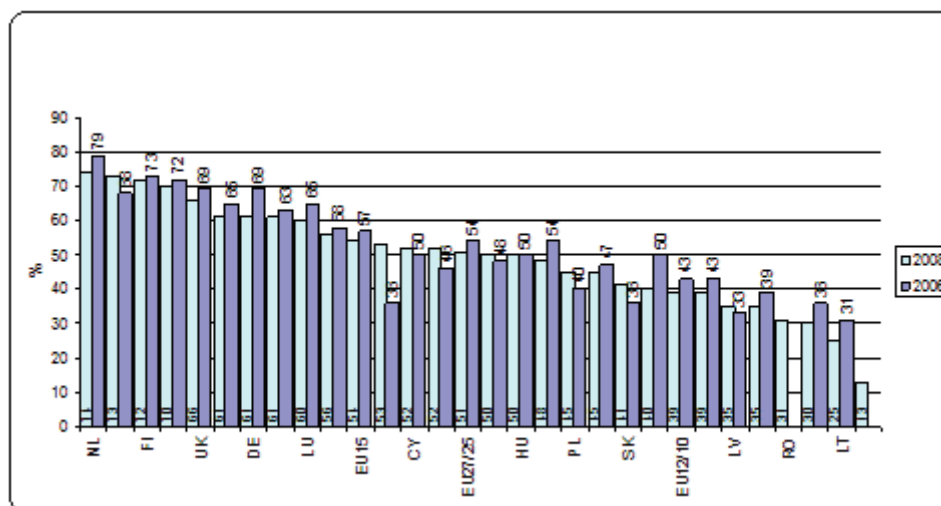


Figure no. 1: Percentage of consumers who feel adequately protected by existing measures

Source: European Commission, 2008. *Special Eurobarometer 298* and European Commission, 2006. *Special Eurobarometer 205 on consumer protection in the Internal Market*

Most of the existing EU consumer laws are based on the principle of “minimum harmonization”. Legislation explicitly recognizes the right of member states to add stricter rules to the EU rules which set a floor. This approach was entirely valid at a time when consumer rights were very different between the member states and e-commerce was nonexistent.

The previous strategy set out a new approach based on “full harmonization”. This simply means that, in order both to improve the internal market and to protect consumers, legislation should not, within its given scope, leave room for further rules at national level.

In future, each regulatory problem and the need for any proposals will continue to be judged on its own merits and the full range of regulatory instruments considered. If legislative proposals are identified as the appropriate response, targeted full harmonization of consumer protection rules at an appropriately high level will tend to be the Commission’s approach. The Commission will also carry out a robust Impact Assessment of any legislative proposals and work closely with stakeholders to understand fully the impact of the different options and to build consensus on the way forward so that consumer policy be a model of better regulation.

The choice the EU faces is a clear one: if it is serious about the growth and jobs agenda, it needs a well-functioning Internal Market. A well-functioning Internal Market requires harmonization on certain issues. Harmonization is not possible without Member States’ willingness to adjust certain practices and rules. At the same time, the Commission will not instigate a race to the bottom. It will always strive for a high level of protection

This program is undoubtedly ambitious for relatively new EU policy. Nevertheless, the necessary instruments are available. In the period 2007-2013, the consumer protection policy will greatly support the EU in facing the challenges of growth, of jobs, and the need to renew relationships with the citizens.

The European Union will know if it has fulfilled its mission if, until 2013, it can credibly prove to all EU citizens that they can shop anywhere in the EU – from the shop in the corner to the Internet, having the certainty that they are effectively protected, either against dangerous products, or against dishonest salespeople. It should also be able to prove to all retailers, but in particular to the small and medium-sized enterprises, that they can sell anywhere by following a single set of basic rules.

2. Study concerning the transposition of European Union consumer protection policies to the national legislation

This study is based on the European Union regulations in the field of consumer protection and tackles all product categories to be found in circulation, products which – at a certain time and in various circumstances – can have posed risks to consumers. This is because any product may be potentially dangerous, due to its defectiveness or a fault in manufacturing, by being inadequately used, or due to the very nature of the product.

In carrying out this study, using the comparative method, we have analyzed the European Union and the national regulations by following the way in which the national authorities concerned have understood to transpose nationally the EU regulations in the field of consumer protection, including the principles stipulated in European Union strategy. Thus:

- In the field of dangerous products, Romania has transposed to the national legislation the provisions of the two most important directives in the field, namely Council Directive 85/374 EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, and Council Directive 2001/95 EEC on general product safety.

Concerning the Council Directive 85/374 EEC of 25 July 1985 on the liability of producers for damages generated by defective products (republished in the Official Journal of Romania, part I, no. 313 of 22 April 2008), amended and completed by Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999, Romania transposed this EC act through Law no. 240/2004.

This Directive sets certain principles in the field of consumer protection against the possible damage caused by defective products. The need to transpose – within the framework of the accession to the EU – results from the removal of differences that might affect competition and the circulation of products on the market, different degrees of consumer protection being provided against possible damage caused by defective products.

The producer's liability arises from his very capacity as the producer is the best placed to assess the risks related to the products he has put into circulation, and to set out the measures to be taken in order to diminish these risks. Hence the evident need for the producers to be directly liable for the damage caused.

Contractual provisions cannot impose limitations on or exonerate the producer from the liability for putting such products into circulation.

Law no. 240/2004 means to increase the level of consumer protection, clearly setting out the conditions and manner in which the producers' liability is involved.

Within the circumstances of the proposed regulation, the producer shall be liable for the current and the future damage, even when the damage is caused both by a defect in the product and by the act or omission of a third party.

On this occasion, the national legislation correlates with the legal system in European Union Member States and the cases are provided in which producers may be exonerated from liability for damage caused by putting into circulation defective products, which are restrictively enumerated, clearly setting out the limits to the producer's liability, for the current value threshold set at 2,000.000 RON and, after Romania's accession to the European Union, the equivalent in RON of EURO 500, respectively. This liability of the producer arises due to the deterioration or destruction of any item of property, other than the defective product but in connection with the latter.

At the same time, this law lays down a reasonable length of time during which the injured person can go to court and claim compensation for damage, namely within 3 years from the date on which the claimant was or should have been aware of the damage, defect, and identity of the producer, but no later than 10 years from the date on which the producer put the product in circulation and provided that the damage occurred within the period of 10 years.

Regarding Directive 95 of the European Parliament and of the Council of 3 December 2001, on general product safety, abrogating a previous act, Directive no. 92/59 EEC on general product safety, its adoption was necessary in order to complete, reinforce or clarify some of its provisions in the light of experience as well as new and relevant developments on consumer products safety. The Directive was transposed to the national legislation through Law no. 245/2004 on general product safety¹. The law transposes the text of the Directive, providing definitions for the terms "product", "dangerous product", etc.

- In the field of toys, the legal framework is provided by Government Decision no. 396/2003 on ensuring² the safety of toy users, and Government Decision no. 962/2007 for the modification and completion of laws in the field of the free movement of goods, decisions that take over the provisions of Directive 88/378/EEC on toys.

The European Parliament adopted on 18 December 2008 the European Commission's proposal to reinforce substantially the EU rules on toys' safety. The Council, as well, adopted directives with a view to strengthening the safety of toys on the internal market (3744/08 and 8923/09 ADD1). Thus, there is the guarantee for consumers that the toys sold in the European Union meet the strictest safety requirements in the world, in particular concerning the use of chemical substances.

¹ Published in the Official Journal of Romania, part I, no. 565 of 23 June 2004, modified by Law no. 363/2004 and republished in the Romanian Official Gazette, part I, no. 360 of 9 May 2008

² Published in the Official Journal of Romania, part I, no. 264 of 16 April 2003, modified and completed by Government Decision no. 962/2007, published in the Official Journal of Romania, part I, no. 628 of 13 September 2007

The new legal framework tackles a wide range of issues in order to insure that the toys pose no risk for health or risk of lesions. It improves current standards concerning the marketing of toys manufactured and imported to the EU in order to reduce accidents associated with toys and obtain long-term benefits for health (Baciu, 2009).

New requirements for chemical products. The chemical products that may cause cancer or alter genetic information can no longer be used in manufacturing accessible components of the toys. For certain substances, such as nickel, maximum acceptable values have been reduced, while extremely toxic heavy metals, such as lead and mercury, can no longer be deliberately used for the manufacturing of toys. Allergenic scented substances are either totally banned if they have a high allergenic potential, or the toy should bear warnings on their labels if the substances are potentially allergenic for some consumers.

The strengthening of safety in order to prevent the risk of suffocation. The rules are strengthened for the protection of children against suffocation with toy components, in particular small parts, among others, in order to prevent the more recent risk of toys like those with suction pads/cups. Toys to be found in food products or incorporated into a food product should have their own packaging. Toys that make a whole item with a food product at the moment of consumption (e.g. "surprise candies") so that the food product should be eaten in order to have access to the toy are banned.

Warnings on toys. In order to prevent accidents, the warnings have to be written visibly, be easily legible and in words that are easy to understand by the consumers. Warnings that are in contradiction with the destination of the toy are banned, in particular the warning: "not to be used by children younger than 36 months", on toys obviously meant for this age group. The toys included or incorporated into a food product bear the notice: "Contains a toy; supervision by an adult is recommended".

- In the field of dangerous chemical substances, the framework legislation is represented by Government Decision no. 1408/4.11.2008 on the classification, labeling and packaging of dangerous chemical substances and preparations (Published in the Official Journal of Romania, part I, no. 813 of 4 December 2008).

This Decision has transposed the provisions of Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labeling of dangerous substances, published in the Official Journal of the European Communities no. 196 of 16 August 1967, with subsequent amendments and additions.

Government Decision no. 1408/4.11.2008 on the classification, packaging and labeling of dangerous substances transposed the provisions on defining the terminology in the field, types of dangerous substances and preparations, the packaging and labeling requirements.

Concerning drug precursors and civil use explosives, the legislative framework in the field is represented by Law no. 143/2000 on drug trafficking and illegal drug consumption (Published in the Official Journal of Romania, part I, no. 362 of 3 August 2000, with subsequent amendments and additions) and Law no. 118/1992 through which Romania adhered to the United Nations' Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna 1988 (Published in the Official Journal of Romania, part I, no. 494 of 10 July 2002). Law no. 143/2000 was modified by the Government Emergency Ordinance 121/2006 on the legal status of drug precursors.

In Romania, the explosives' status is regulated by Law no. 126/1995 on the regulation of explosive materials, with subsequent amendments and additions (Published in the Official Journal of Romania, parta I, no. 298 of 28 December 1995), and the Technical standards on the possession, preparation, experimenting, destruction, transportation, storage, handling and use of explosive materials in any other specific operations in the activities of those who held them, as well as the authorizing of pyrotechnics and explosive disposal experts. The Law was consolidated in 2005 by means of Law no.464/200, Law no. 478/2003 and Law no. 262/2005.

- In the field of medicinal products, in Romania, the framework legislation is represented by Law no. 95 of 14 April 2006 on the health system reform (Published in the Official Journal of Romania no. 372/28 April 2006, with subsequent modifications), which abrogated Emergency Ordinance no.152/1999 on medicinal products for human use. The main provisions of this law refers to marketing authorization, production, testing, supervision, labeling, advertising, classification, distribution and the pricing of medicinal products. This law has been modified and consolidated several times, most recently by Government Emergency Ordinance no. 1/2010. The law authorizes the Health and Family Ministry to draw up the secondary legislation for the application of this law, in order to transpose to the national legislation the large number of Directives in the field of medicine.

- In the field of cosmetics, the framework legislation is provided by Law no. 178/2000 (Republished in the Official Journal of Romania, part I, no. 91 of 27 January, 2005 and modified by Law no. 469/2006) on cosmetic products that transposes the provisions of Directive 76/768/ EEC on cosmetic products.

The law stipulates the conditions to be observed in the manufacturing and marketing of human use cosmetic products, the main provisions making reference to the definition of specific technology, restrictions on substances to be used in composition of the cosmetic product, its mandatory notification and definition, the obligation on the producer/ importer concerning the drafting of the cosmetic product documentation, marking of the vessels/packaging of the cosmetic products.

- In the field of electromagnetic compatibility, the provisions of the Directive 89/336/EEC on electromagnetic compatibility were initially fully transposed through Government Decision no. 497/18.04.2003 (Published in the Official Journal of Romania, part I, no. 329 of 15 May 2003) on the setting of the conditions for the placing on the market and taken into service of electric and electronic apparatus, from the point of view of electromagnetic compatibility, drawn up by the Ministry of Industry and Resources and the Ministry of Communications and Information Technology, due to come into force on 1.01.2002 and Decision no. 1554/2003 (Published in the Official Journal of Romania, part I, no. 17 of 9 January 2004) for the amendment and completion of Government Decision no. 497/2003. Subsequently, Government Decision no. 982/2007 abrogated these acts on magnetic compatibility (Published in the Official Journal of Romania, part I, no. 645 of 21 September 2007).

The Government Decision transposes fully the provisions of the Directive specifying that, pending the conclusion of the Protocol to the Europe Agreement on Conformity Assessment (PECA), the conformity marking applied on the products will be the CS conformity marking, and, at the same time, products may be marketed bearing the CE

conformity marking if the marking is applied by a producer from a European Union Member State.

This act has introduced the essential safety requirements and the conditions for putting on the market and taking into service of electric and electronic apparatus from the point of view of electromagnetic compatibility, the minimum requirements for designing, installing and checking these devices, the procedures for the assessment of conformity, the conformity statement model as well as the minimum criteria concerning the certifying bodies designated.

For products for which electromagnetic compatibility requirements must be met, the market supervision will be provided by the National Authority for Consumer Protection (for radio and television receivers, mobile radio equipment, commercial radio telephones, medical equipment, IT equipment, electric and electronic home appliances, educational electronic equipment, telecommunications equipment and networks) for natural person consumers, by the Communications and IT Ministry – for radio and TV receivers, mobile radio equipment, commercial radio telephones, IT equipment, air, river and maritime radio equipment, radio and TV transmitters - and by the Industry and Resources Ministry – for industrial production equipment, medical and scientific equipment, electric and electronic home appliances, educational electronic equipment, fluorescent and gas discharge lamps.

- In the field of foodstuffs, the Government Emergency Ordinance no. 97/2001 (Republished in the Official Journal of Romania, part I, nr. 168 of 5 March 2008) concerning the regulation of foodstuffs production, circulation and commercialization represents the framework legislation in the field, laying down the legal framework concerning the production, packaging, storage, transport and marketing of foodstuffs, the responsibility of foodstuffs producers and distributors and the management of official control for foodstuffs.

So far, the following Directives have been transposed to the national legislation:

- The provisions of Directive 80/777/EEC, with subsequent amendments concerning the exploitation and marketing of natural mineral waters are all transposed by means of Government Decision no. 1020/01.09.2005 on the approval of technical standards for the use and marketing of natural mineral waters with the subsequent amendments and additions. The Government Decision introduces the technical standards for the exploitation and marketing of natural mineral waters, the extraction methods, transport and bottling, also laying down the modes of labeling and marketing of natural mineral waters. The market is supervised by the National Agency for Mineral Resources and by the National Consumer Protection Authority.

- The provisions of Directive 79/693/EEC with the subsequent amendments concerning fruit jams, jelly, marmalade and chestnut puree are all transposed by means of the Joint Order no.523/808/351 of 2003 of the Minister of Agriculture, Forests, Waters and the Environment, of the Minister of Health and of the President of the National Authority for Consumer Protection for the approval of the standards on the nature, content, production and labeling of fruit jams, jellies and marmalades as well as sweetened chestnut puree intended for human consumption.

- The provisions of Directive 74/409/EEC, with subsequent amendments, on honey are fully transposed by Order no.522/798/317 of 2003 of the Minister of Agriculture,

Forests, Waters and Environment, Minister of Health and of the President of the National Consumer Protection Authority for the approval of the standards concerning the denomination, description and definition, characteristics and composition of honey. This order introduces the standards concerning the nature, content, origin, presentation, composition and quality of honey, also laying down the modes of labeling and marketing of honey.

- The provisions of Directive 93/77/EEC - relating to fruit juices and certain similar products - are fully transposed by means of Order no.510/768/319 of 2003 of the Minister of Agriculture, Forests, Waters and Environment, of Minister of Health and of the President of the National Consumer Protection Authority for the approval of the standards on the nature, composition, production and labeling of fruit juices and other similar products intended for human consumption. This order has introduced the standards on the nature, composition, production of fruit juices and certain similar products, also laying down the modes of labeling and marketing them as well the special provisions on fruit nectar.

- The provisions of Directive 73/437/CEE - with subsequent amendments - on sugars intended for human consumption, are fully transposed by Order no. 269/453/81 in 2003 of the Minister of Agriculture, Forests, Waters and Environment, Minister of Health and of the President of the National Consumer Protection Authority for the approval of the standards on the nature, content, origin, labeling and marking of certain sugars intended for human consumption. This Order has introduced Standards on the nature, content, origin of certain sugars intended for human consumption, also laying down the modes of labeling and marking them, as well as the method of determining the color type, ash content, and the color in solution of white sugar and of extra-white sugar.

- The provisions of Directive 1999/4/CE relating to coffee extracts and chicory extracts are fully transposed by the Joint Order no. 126/302 of 23.04.2001/16.05.2001 of the Minister of Agriculture, Food Industry, Forests, Waters and Environment, Minister of Health and Family for the approval of the standards on the nature, content and labeling of coffee extracts and chicory extracts, due to come in force in September 2002. This order has introduced the standards on the nature and content of coffee extracts and chicory extracts also laying down the modes of labeling them.

- The provisions of Council Directive 83/417/EEC, with subsequent amendments, relating to certain lacto proteins (caseins and caseinates) intended for human consumption are fully transposed by means of the Order no.6/828 in 2007 of the President of the National Sanitary and Veterinary Authority and for the Safety of Foodstuffs, and of the Minister of Public Health for the approval of the Standard for certain lacto proteins (caseins and caseinates) intended for human consumption. This Order has introduced the standards on the nature, content, production methods, and quality of lacto proteins intended for human consumption, also laying down the modes of labeling them.

- The provisions of Directive 76/118/CEE - with subsequent amendments - relating to certain types of partly or wholly dehydrated preserved milk intended for human consumption are fully transposed by means of Order no.521/842/321 of 2003 of the Minister of Agriculture, Forests, Waters and the Environment, of the Minister of Health and of the President of the National Consumer Protection Authority for the approval of the Standard on the designation, denominations they are sold under, the labeling and the

quality conditions of certain types of partly or wholly dehydrated preserved milk intended for human consumption. This order has introduced the standards relating to the nature, content, production and composition of certain partly or wholly dehydrated preserved milk intended for human consumption, also laying down the modes of labeling them.

- The provisions of Directive 79/112/CEE, with subsequent amendments relating to the labeling, the displaying and advertising of foodstuffs intended for sale to the ultimate user, of Directive 1999/10/EC relating to the setting of ecologically sound criteria for ecological labeling of varnishes and paints, Directive 89/396/EEC relating to the indication or identification marking of the foodstuffs batch, and Directive 87/250/EEC relating to the indication of alcoholic strength have been transposed by means of Government Decision no. 784/1996, amended and completed by Government Decision no. 953/1999, for the approval of standards on foodstuffs labeling. Subsequently, this Government Decision was abrogated and its provisions were incorporated in Government Decision no.106 of 7 February 2002 - with subsequent amendments and additions - on the labeling of foodstuffs.

- In the field of personal protective equipment, the Ministry of Labor has transposed to the Romanian legislation the provisions of the Directive 89/686/EEC – with the subsequent amendments - on personal protective equipment in compliance with the provisions of Government Decision no. 115 of 5 February 2004 (Published in the Official Journal of Romania, part I, no 166 of 26 February 2004) – amended by Government Decision no.809/2005 - relating to the setting of the essential security requirements for the individual protective equipment and of the conditions in which it can be placed on the market.

- Currently, in Romania, the legislative framework in the field of medical devices is provided by Law no. 176/2000 on medical devices (Republished in the Official Journal of Romania, part I, no. 79 of 24 January 2005), drawn up by the Ministry of Health and Family by transposing the main provisions of Directive 90/385/EEC on active implantable medical devices, Directive 93/42/EEC on medical devices, and Directive 98/79/EEC on in-vitro diagnostic medical devices.

The main provisions of the Law regard the following: fields of application, essential requirements, requirements for placing on the market and taking into service of the devices, market supervision, conformity assessment procedure, criteria for notifying certification bodies, classification of devices, CE marking identification.

The application standards have set out in detail the product conformity assessment to the effect of specifying the procedure to be followed by the producer according to the risk level of the medical device. At the same time, the standards also include the clinical investigation procedure that has to take place under the supervision of the Health and Family Ministry and of the Commission for Medical Devices.

Law no. 176/2000 on medical devices has not transposed the provisions from the aforementioned Directives relating to:

- Special procedures for medical devices systems and medical devices package systems according to Art. 12 in Directive 93/42/EEC on medical devices;
- The decisions regarding the classification of medical devices and their derogation clause;

- The provisions concerning the affixing of CE marking and those concerning the measures for market supervision against incorrect affixing of CE marking on medical devices;

- Special measures of health monitoring in compliance with Art. 13 of Directive 98/79/EEC on in-vitro diagnostic medical devices.

The above-mentioned provisions have been fully transposed through Orders of the Health and Family Ministry by 31 December 2002.

Law no. 176/2000 on medical devices partly transposes the provisions of Directive 84/539/EEC on electro-medical equipment used in human or veterinary medicine to the effect of transposing the provisions concerning electro-medical equipment used in human medicine.

- In the field of simple pressure vessels – gas cylinders and pressure equipment - the legislation in force includes provisions fashioned as technical specifications, including the design, construction, installation, and operation requirements. These technical specifications have been issued by the State Inspectorate for the Supervision of Boilers, Pressure Vessels, and Lifting Equipment – ISCIR (Romanian acronym) and contain the mandatory requirements to be satisfied by designers and manufacturers concerning the design, manufacturing, installation and taking into service supervision.

Directive 87/404/EEC relating to simple pressure vessels has been fully transposed by means of Government Decision no. 454/18.04.2003 (Republished in the Official Journal of Romania, part I, no. 583 of 08 August 2007) - amended by Government Decision no. 1242/2004 - on the setting of standards for the placing on the market of simple pressure vessels.

This act stipulates the essential safety requirements and the conditions for the placing on the market of simple pressure vessels, mandatory minimum requirements for designing, manufacturing, installing and checking these vessels, the single procedures for conformity assessment, the conformity declaration model, the methodology for verification, testing and supervision, as well as the basic criteria concerning the recognized certification bodies.

The provisions of Directive 76/767/EEC relating to the common provisions for pressure vessels and methods for checking them, Directive 84/525/EEC relating to vessels – gas cylinders made of unwelded steel, Directive 84/526/EEC relating to vessels – gas cylinders made of non-alloy aluminum and unwelded aluminum alloys and 84/527/EEC relating to vessels – gas cylinders made of welded non-alloy steel - have been transposed by means of the Order of the Industry and Resources Minister no. 113/19.04.2001, with the subsequent amendments and additions, concerning the approval of technical regulations for vessels – gas cylinders.

The provisions refer to the requirements to be satisfied by each type of vessel, the approval of the model, verifications, specific marking affixed on such vessels, the technical documents enclosed for their placing on the market.

The supervising body that checks the observance of the aforementioned order is the State Inspectorate for the Supervision of Boilers, Pressure Vessels, and Lifting Equipment – ISCIR (Romanian acronym).

- In the field of construction products, the Romanian current legislation is mainly directed towards building and civil engineering works and less so towards construction products, both directions being partly synchronized, partly harmonized, but there are also oversights of the *acquis communautaire* (the body of EU law) in the field.

Thus, Law no. 10/1995 (Published in the Official Journal of Romania, part I, no. 12 of 24 January 1995) relating to quality in building and civil engineering works, with the amendments of Law no. 123/2007, sets the obligation of making constructions that satisfy the 6 essential requirements provided by Directive 89/106/EEC concerning the construction products, and, for achieving this goal, regulation conditions are laid down for all those involved in the designing, carrying out, exploitation and use of the construction works. Some of the regulation conditions provided by Law no. 10/1995 –with subsequent amendments and additions - relating to quality in construction works regards construction products and product suppliers in a manner that touches only partially the provisions of the Directive, and without taking into account the provisions of the Decisions; moreover, these conditions are not related to the placing on the market and free movement of the products, but their use in construction works. According to these regulations, starting from 1995, the system “The technical agreement for new products, procedures and equipment in construction works” was implemented in Romania, a system in accordance with UEATC rules, which also stipulates the obligation to declare/certify the products’ conformity with Romanian standards or with Romanian technical agreements, without actually specifying the procedure applying to particular products, as their responsibility is optionally assumed by the producers.

The market supervision will be carried out by the State Inspectorate for Construction Works, which operates in subordination to the Ministry of Public Works, Transport and Housing.

- In the field of textiles, the legislative framework is provided by the Government Decision no. 527/2007 (Published in the Official Journal of Romania no. 426 of 26 June 2007) on the fiber composition denomination, marking and labeling of textile products, whose provisions came in force at 01.07.2007, except for the provisions relating to the checks of the textile products fiber composition. To this effect, Government Decision no. 296/2008 on the methods of analysis used for the measuring and checking of textile products fiber composition has been adopted, fully transposing the provision of Directive 96/73/EEC on certain methods for the Analysis of Binary Textile Fiber Mixtures and Directive 73/44/EEC relating to the Quantitative Analysis of Ternary Fiber Mixtures.

Textile products are tested physically, mechanically and chemically by the Test Laboratory of the National Institute for Textile and Leather Products Research and Development and by other four company laboratories accredited by the national accreditation body.

At the same time, the regulation comprises more provisions than the Directive concerning the label indication concerning the main technical and qualitative features of the textile product, of the name and address of the producer/importer.

The body in charge of the national legislation application supervision in the field is the National Consumer Protection Authority.

- In the field of radio and telecommunications equipment. Currently, the legislative framework is provided by the guideline provisions of the Government Emergency

Ordinance no. 79 of 13 June 2002 (Published in the Official Journal of Romania no. 457 of 27 June 2002) on the communications regulation general framework and the Order no. 8/1998 of the Communications Minister and the Procedure for Issuing Type Authorizations no. 401/3125/1998, adopted by the General Inspectorate for Communications for the application of the aforementioned Order. According to Government Emergency Ordinance no. 79/2002, amended several times, most recently by Law no. 38/2009 on the modification and completion of Government Emergency Ordinance no. 79/2002, the National Authority for Communications Management and Regulation issues type authorizations for telecommunications terminal equipment (satellite earth station equipment included) and radio communications equipment, also supervising the market of this particular type of equipment. In order to receive the authorization, it is necessary to obtain the standard type certificate and present the declaration of conformity, on the basis of procedures similar to those in Annexes I and II of the Directive 98/13/EC relating to telecommunications terminal equipment and satellite earth station equipment.

- In the field of weapons supervision, the framework legislation in the field is provided by Law no. 17/1996 (Published in the Official Journal of Romania no. 74 of 11 April 1996) on the regulations for fire arms and ammunitions, and Law no. 295/2004 (Published in the Official Journal of Romania no. 583 of 30 June 2004), with the subsequent amendments, which abrogated Law no. 17/1996, except for the provisions of Arts. 46-52, which are still in force for each institution which employs persons with public authority enforcement duties, armed with defense and security guard arms, until the laying down, in the stipulated laws under Art. 43 of the circumstances in which these persons can bear and use the arms they are endowed with.

Conclusions

The study proves, without doubt, the availability of Romanian authorities to transpose into national law European Union consumer protection regulations. In case of the regulations rules established by the European Union Council or by the Parliament and Council of the European Union, Romanian authorities have taken all of these provisions in the legislation, including the legal means available to meet their obligations by undertaken those provisions. In case of the directives rules established by the European Union Council, Romanian authorities have taken them in terms of obligations imposed on all Member States, while retaining the possibility to establish the internal rules of legal means of meeting these obligations and opportunities under national specificities.

It is important that the rules already transposed into national law and the rules to be adopted at EU level are effectively implemented for achieving the purpose for which they were adopted, otherwise, these rules being purposeless.

Applying these rules is concerning both the state authorities, responsible on consumer protection and consumers themselves. In case of the competent authorities, the specialist inspectors must be informed in connection with the new regulation, on the one hand and it is necessary to prepare, at least annually, a report on national implementation of Community rules, report outlining the extent that these rules have been understood and applied, but especially the actions necessary for a better and more efficient application of the Union rules. In case of the citizens, consumers, it is required that the authorities,

especially, the non-governmental organizations, should conduct extensive outreach to consumers about the rights granted them by new regulations.

Only when both consumers and authorities know their rights granted them and their obligations, rights and obligations that they really implement, only then we can say that European Union and national rules and regulations, actually reached their target.

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